IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

OP.No. 7031 of 2000(K)

PETITIONER:

K.N.VENKATESWARAN, LICENSEE,
VEGETARIAN REFRESHMENT ROOM,
TRIVANDRUM CENTRAL RAILWAY STATION,
TRIVANDRUM.

BY ADV. SRI.BECHU KURIAN THOMAS
SRI.PRAKASH PUTHIADAM

RESPONDENTS:
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1. **UNION OF INDIA, REP.BY SECRETARY,**
DEPARTMENT OF LABOUR,
NEW DELHI.

2. **STATE OF KERALA, REP.BY SECRETARY,**
DEPARTMENT OF LABOUR, TRIVANDRUM.

3. **THE LABOUR ENFORCEMENT OFFICER(CENTRAL),**
TC. 25/34, UPPALAM ROAD, TRIVANDRUM.

4. **SOUTHERN RAILWAY, REP.BY**
CHIEF COMMERCIAL MANAGER,
PARK TOWN, MADRAS.

5. **THE DIVISIONAL COMMERCIAL MANAGER,**
SOUTHERN RAILWAY, TRIVANDRUM.

BY ADV. SRI.JOY GEORGE – R4 & R5
GOVERNMENT PLEADER SRI.P.N.SANTHOSH - R2
ASSISTANT SOLICITOR GENERAL SRI.P.PARAMESWARAN – R1&R3

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.7031/2000

ORDER ON CMP. NO.11748/2000 IN OP. 7031/2000

DISMISSED

23.10.2007 **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE LICENSE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND THE RAILWAY ADMINISTRATION.

EXT.P2:- COPY OF THE CERTIFICATE OF REGISTRATION DT. 20.4.89.

EXT.P3:- COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE 3RD RESPONDENT DT. 29.4.98.

EXT.P4:- COPY OF THE REPLY LETTER DT. 22.5.98 ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE ORDER IN ST. 483/91 DT. 2.4.98.

EXT.P6:- COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT IN ST. 396/98 BEFORE THE ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM.

EXT.P7:- COPY OF THE COMPLAINT IN ST. 397/98 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM.

EXT.P8:- COPY OF THE COMPLAINT IN ST. 398/98 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM.

EXT.P9:- COPY OF THE COMPLAINT IN ST. 399/98 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM.

/TRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.7031 of 2000-K

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Dated this the 23rd day of October, 2007.

JUDGMENT

1. This writ petition is filed challenging the proceedings under the Contract Labour (Regulation and Abolition) Act, 1970, hereinafter referred to as the "Act". Impugned are proceedings before the criminal court filed invoking the provisions of that Act. A declaration that the petitioner is not entitled to obtain registration under the Act is also sought for.

2. The petitioner is the licensee of the Southern Railways to run the Vegetarian Refreshment Room in the Trivandrum Central Railway Station.

3. Recalling the Act and the Rules issued thereunder,

communication has been issued from the Ministry of Railways to General Managers of all Indian Railways production units and other establishments stating, among other things, that the provisions of the Act and the Rules made thereunder do not apply to establishments like Vegetarian/Non-vegetarian Refreshment Rooms, other Refreshment Rooms, Tea-stalls, curio shops run by private individuals on obtaining licences from the Railways. This situation, without any contradiction, is shown with reference to Letter No.E(LL)91 AT/CNR/1-13 dated 24-4-1991 issued by the Ministry of Railways to the General Managers with Master Circular No.26/91.

4. There is no counter affidavit on record.

I am satisfied that even without granting any declaration, the proceedings against the petitioner can be quashed, having regard to the aforesaid stand of the Union of India. Hence, this writ petition is allowed quashing the

proceedings in S.T.Nos.396, 397, 398 and 399 of 1998 of the Court of the Additional Chief Judicial Magistrate, Thiruvananthapuram.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.7031 of 2000-K

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JUDGMENT

Dated: 23rd October, 2007.